

ASSEMBLY BILL

No. 2717

Introduced by Assembly Member Walters

February 24, 2006

An act to amend Sections 17171, 17173, 17180, 17183, 17183.5, 17184, 17185, 17193, 17193.5, 17194, 17195, 17199.1, and 17199.4 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 2717, as introduced, Walters. Charter school finance.

The California School Finance Authority Act establishes the California School Finance Authority for the purpose of assisting school districts and community college districts by providing financing for working capital, as defined, and capital improvements.

This bill would, in addition, provide that charter schools are eligible for assistance under the act, and would revise various definitions and procedures contained in the act accordingly.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17171 of the Education Code is
- 2 amended to read:
- 3 17171. The Legislature hereby finds and declares that it is in
- 4 the interest of the state and its people for the state to do all of the
- 5 following:
- 6 (a) Reconstruct, remodel, or replace existing school buildings
- 7 ~~which that~~ are educationally inadequate or ~~which that~~ do not
- 8 meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts, *charter schools*, and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

SEC. 2. Section 17173 of the Education Code is amended to read:

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) "Act" means the California School Finance Authority Act.

(b) "Agent" means a county or city board of education or superintendent of schools acting with its consent on behalf of one or more school districts for any purpose of this chapter, and the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with its consent on behalf of one or more community college districts for any purpose of this chapter, *and the school district, county office of education, educational management organization, or other nonprofit entity acting with the consent of and on behalf of one or more charter schools for any purpose of this chapter.*

(c) "Authority" means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) "Bonds" means bonds, notes, ~~bond anticipation notes~~ *lease obligations, certificates of participation*, commercial paper, and any other evidences of indebtedness.

(e) "Cost," as applied to all or part of a project financed *or refinanced* pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

1 (3) Demolition or removal of any buildings or structures on
2 land acquired for a project, including the acquisition of any lands
3 to which the buildings or structures may be moved.

4 (4) All machinery and equipment.

5 (5) Financing *or refinancing* charges, *including, but not*
6 *limited to, credit enhancement costs, and prepayment penalties.*

7 (6) Interest prior to, during, and for a period following, the
8 completion of such construction or improvement as determined
9 by the authority.

10 (7) Provisions for working capital.

11 (8) Reserves for principal and interest, and for extensions,
12 enlargements, additions, replacements, renovations, and
13 improvements.

14 (9) Engineering, architectural, financial, and legal services,
15 plans, specifications, studies, surveys, estimates, administrative
16 expenses, and other expenses necessary or incident to the
17 construction, acquisition, or improvement of any project or any
18 financing *or refinancing* under this chapter.

19 (f) “Educational facility” means any property, facility,
20 structure, equipment, or furnishings used or operated in
21 conjunction with one or more public schools, *including charter*
22 *schools*, or community colleges, including, but not limited to, all
23 of the following:

24 (1) Classrooms.

25 (2) Auditoriums.

26 (3) Student centers.

27 (4) Administrative offices.

28 (5) Sports facilities.

29 (6) Maintenance, storage, or utility facilities.

30 (7) All necessary or usual attendant and related facilities and
31 equipment, including streets, parking, and supportive service
32 facilities or structures required or useful for the effective
33 operation of the educational facility.

34 (g) “Participating—~~district~~ party” means a school district,
35 *charter school, county office of education*, or community college
36 ~~district—which~~ *that* undertakes, itself or through an agent, the
37 financing or refinancing of a project or of working capital
38 pursuant to this chapter. “Participating—~~district~~ party” shall also
39 be deemed to refer to the agent to the extent the agent is acting
40 on behalf of the school district, *charter school, county office of*

1 *education*, or community college district for any purpose of this
2 chapter.

3 (h) “Project” means the acquisition, construction, expansion,
4 remodeling, renovation, improvement, furnishing, or equipping
5 of an educational facility to be financed or refinanced pursuant to
6 this chapter. “Project” may include any combination of the
7 foregoing undertaken jointly by any participating ~~district~~ *district*
8 with one or more other participating ~~districts~~ *parties*.

9 (i) “Working capital” means funds to be used by, or on behalf
10 of, a participating ~~district~~ *party* to pay maintenance or operating
11 expenses, or any other costs ~~which~~ *that* would be treated as an
12 expense item under generally accepted accounting principles in
13 connection with the ownership or operation of an educational
14 facility, including, but not limited to, all of the following:

15 (1) Reserves for maintenance or operating expenses.

16 (2) Interest for a period not to exceed ~~one year~~ *two years* on
17 any loan for working capital made pursuant to this chapter.

18 (3) Reserves for debt service, and any other costs necessary or
19 incidental to, financing pursuant to this chapter.

20 (4) *Payments made by a participating party for the use of an*
21 *educational facility.*

22 (j) “Certificate of participation” means an undivided interest in
23 one or more bonds, leases, loans, installment sales, or other
24 agreements of a participating ~~district or districts~~ *party or parties*.

25 (k) “*Charter school*” means a school established pursuant to
26 *Part 26.8 (commencing with Section 47600).*

27 SEC. 3. Section 17180 of the Education Code is amended to
28 read:

29 17180. The authority is hereby authorized to do all of the
30 following:

31 (a) Adopt bylaws for the regulation of its affairs and the
32 conduct of its business.

33 (b) Adopt an official seal.

34 (c) Sue and be sued in its own name.

35 (d) Receive and accept gifts, grants, or donations of money for
36 any of the purposes of this chapter from any of the following:

37 (1) A federal agency.

38 (2) A state agency.

39 (3) A municipality, county, or other political subdivision of
40 the state.

1 (4) An individual, association, or corporation.

2 (e) Engage the services of private consultants to render
3 professional and technical assistance and advice in carrying out
4 the purposes of this chapter.

5 (f) (1) Determine the location and character of any project to
6 be financed *or refinanced* under this chapter, and acquire,
7 construct, enlarge, remodel, renovate, alter, improve, furnish,
8 equip, own, maintain, manage, repair, operate, lease as lessee or
9 lessor, or regulate the same.

10 (2) Designate a participating ~~district~~ *party* as its agent, with
11 authority to enter into contracts, for any of the purposes specified
12 in paragraph (1).

13 (3) Enter into contracts for any of the purposes specified in
14 paragraph (1).

15 (4) Enter into contracts for the management and operation of a
16 project owned by the authority.

17 (g) Acquire, directly or by and through a participating ~~district~~
18 *party* as its agent, by purchase solely from funds provided
19 pursuant to this chapter, or by gift or devise, and sell, by
20 installment or otherwise, property, rights, rights-of-way,
21 franchises, easements, and other interests in lands, including, but
22 not limited to, lands lying under water, and riparian rights,
23 located within the state ~~which~~ *that* the authority deems necessary
24 or convenient for the acquisition, construction, financing, or
25 operation of a project. The authority may do so upon the terms,
26 and at the prices, it considers reasonable and upon which it can
27 agree with the owner, and may take the title to the interest in the
28 name of the authority or in the name of a participating ~~district~~
29 *party* as its agent.

30 (h) Receive and accept from any source loans, contributions,
31 or grants for, or in aid of, the construction, financing, or
32 refinancing of all or part of a project, in the form of money,
33 property, labor, or other things of value.

34 (i) Pursuant to an agreement between the authority and the
35 participating ~~district~~ *party*, make, directly or through a lending
36 institution, secured or unsecured loans to, or purchase secured or
37 unsecured loans from, or purchase all or part of any rights to or
38 possibilities regarding the state share of funding for school
39 facilities approved by the State Allocation Board pursuant to
40 Chapter 12.5 (commencing with Section 17070.10). The

1 purchase of all or part of any rights to, or possibilities regarding,
2 the state contribution for funding for school facilities approved
3 by the State Allocation Board shall be limited to amounts
4 approved and funded or amounts approved but not yet funded
5 from proceeds of state bonds already authorized by the electors
6 but not yet issued. Loans or purchases completed pursuant to this
7 section may be used ~~for either of the following purposes: to~~
8 *finance or refinance a project or provide working capital. A loan*
9 *to finance or refinance a project shall not exceed the total cost of*
10 *the project, as determined by the participating party and*
11 *approved by the authority.*

12 ~~(1) To finance a project or provide working capital. No loan to~~
13 ~~finance a project shall exceed the total cost of the project, as~~
14 ~~determined by the participating district and approved by the~~
15 ~~authority.~~

16 ~~(2) To refinance indebtedness incurred by the participating~~
17 ~~district in connection with projects undertaken, educational~~
18 ~~facilities acquired, or working capital financed.~~

19 (j) Upon the terms and conditions the authority deems proper,
20 lease a project being financed *or refinanced* pursuant to this
21 chapter to a participating ~~district party~~, and charge and collect
22 rent therefor. The authority may terminate a lease pursuant to this
23 subdivision upon the lessee's failure to comply with any of its
24 obligations under the lease. The lease may include any of the
25 following provisions:

26 (1) That the lessee shall have the option to renew the term of
27 the lease for the period or periods, and at the rent, determined by
28 the authority, or to purchase any or all of the project.

29 (2) That upon payment by the participating ~~district party~~ of all
30 of the indebtedness incurred by the authority for the financing of
31 the project or for the refinancing of the ~~district's participating~~
32 *party's* outstanding indebtedness, the authority may convey any
33 or all of the project to the lessee or lessees, with or without
34 further consideration.

35 (k) Charge and equitably apportion among participating
36 ~~districts parties~~ its administrative costs and expenses incurred
37 pursuant to this chapter.

38 (l) (1) Obtain, or aid in obtaining, from any state or federal
39 agency or any private company, any insurance, guarantee, letter,
40 or line of credit regarding, or of, or for, the payment or

1 repayment of all or part of the interest, principal, or both, on any
2 loan, lease, or obligation, or any instrument evidencing or
3 securing the same, made or entered into pursuant to this chapter,
4 or on any bonds issued pursuant to this chapter.

5 (2) Notwithstanding any other provision of this chapter, enter
6 into any agreement, contract, or any other instrument regarding
7 any insurance, guarantee, letter, or line of credit specified in
8 paragraph (1), and accept payment in the manner and form
9 provided therein in the event of default by a participating ~~district~~
10 *party*.

11 (3) Assign any insurance, guarantee, letter, or line of credit
12 specified in paragraph (1) as security for bonds issued by the
13 authority.

14 (m) Enter into any agreements or contracts, including, but not
15 limited to, agreements for liquidity or credit enhancement,
16 execute any instruments, and any other act or thing necessary,
17 convenient, or desirable for the purposes of the authority or to
18 carry out any express power granted the authority pursuant to this
19 chapter.

20 (n) At the discretion of the authority, invest any moneys held
21 in reserve or in sinking funds, or any moneys not required for
22 immediate use or disbursement, in obligations authorized by the
23 resolution authorizing the bonds secured by the investment, or by
24 law governing the investment of trust funds in the custody of the
25 Treasurer.

26 (o) *Adopt guidelines for grants, bonds, and other evidences of*
27 *indebtedness.*

28 SEC. 4. Section 17183 of the Education Code is amended to
29 read:

30 17183. (a) From time to time, the authority may, by
31 resolution, issue its revenue bonds in order to provide funds for
32 any of the purposes of this chapter. Bonds may be issued to
33 finance any of the following:

34 (1) A single project or financing of working capital for a
35 single participating ~~district~~ *party*.

36 (2) A series of projects or financings of working capital for a
37 single participating ~~district~~ *party*.

38 (3) A single project or financing of working capital for several
39 participating ~~districts~~ *parties*.

1 (4) Several projects or financing of working capital for several
2 participating ~~districts~~ *parties*.

3 (5) A joint venture school facilities construction project
4 undertaken pursuant to Article 5 (commencing with Section
5 17060) of Chapter 12.

6 (b) Except as otherwise expressly provided by the authority,
7 all revenue bonds shall be payable from any available revenues
8 or moneys of the authority not otherwise pledged, subject only to
9 any agreements with holders of particular bonds or notes
10 pledging any particular revenue or moneys. Notwithstanding that
11 revenue bonds issued pursuant to this section may be payable
12 from a special fund, the revenue bonds shall be, and shall be
13 deemed to be for all purposes, negotiable instruments, subject
14 only to the provisions of the revenue bonds for registration.

15 (c) The revenue bonds of the authority may be issued as serial
16 bonds, term bonds, or the authority, in its discretion, may issue
17 bonds of both types. The issuance shall be in accordance with the
18 indenture, trust agreement, or resolution relating to the revenue
19 bonds, which shall provide all of the following:

20 (1) The date or dates of the bonds.

21 (2) The date or dates upon which the bonds will mature, not to
22 exceed 40 years from their respective dates.

23 (3) The interest rate or rates, or methods of determining the
24 interest rate or rates, of the bonds.

25 (4) When the bonds are payable.

26 (5) The denominations of the bonds.

27 (6) The form of the bonds, which shall be either bearer or
28 registered.

29 (7) The registration privileges of the bonds.

30 (8) The manner in which the bonds are to be executed.

31 (9) The place or places at which the bonds shall be payable in
32 lawful money of the United States of America.

33 (10) The terms of redemption of the bonds.

34 (d) After giving due consideration to the recommendations of
35 the participating ~~district or districts~~ *party or parties*, the revenue
36 bonds of the authority shall be sold by the Treasurer at either a
37 public or private sale at a price or prices, and upon the terms and
38 conditions prescribed by the authority. The revenue bonds of the
39 authority may be sold at, above, or below the par value of the
40 bonds.

1 (e) Pending the preparation of the definitive bonds, the
2 authority may issue interim receipts or certificates or temporary
3 bonds ~~which~~ *that* shall be exchanged for the definitive bonds.

4 (f) Any resolution authorizing the issuance of any bonds of the
5 authority, or any issue of revenue bonds of the authority, may
6 include any of the following provisions:

7 (1) Provisions pledging all or any part of the proceeds of the
8 bonds or revenue of a project or loan.

9 (2) Provisions concerning the replacement of mutilated,
10 destroyed, stolen, or lost bonds.

11 (3) Provisions specifying insurance to be maintained on the
12 project and the authorized uses of the proceeds of the insurance.

13 (4) Covenants against the mortgaging or otherwise
14 encumbering, selling, leasing, pledging, placing a charge upon,
15 or otherwise disposing of the project prior to the payment of the
16 bonds issued to finance the project.

17 (5) Provisions specifying the events of default, terms upon
18 which the bonds may be declared due before maturity, and the
19 terms upon which the declaration and its consequences may be
20 waived.

21 (6) The rights, liabilities, powers, and duties arising upon the
22 breach of any covenants, conditions, or obligations.

23 (7) Vesting of the right to enforce covenants in a trustee.

24 (8) The terms upon which all or any percentage of the
25 bondholders may enforce covenants or duties.

26 (9) Procedures for amending the terms of the resolution, with
27 or without the consent of the holders of a specified number of
28 bonds.

29 (10) Provision for any other acts or things deemed necessary,
30 convenient, or desirable by the authority to secure the bonds or
31 improve their marketability.

32 (g) The validity of the authorization and issuance of any bond
33 issue shall not be affected by proceedings for the acquisition,
34 construction, or improvement of any project, or by contracts
35 relating to those proceedings. Any resolution authorizing the
36 issuance of any bonds of the authority may provide authorization
37 for the bonds to bear a statement certifying that they are issued
38 pursuant to this chapter. Bonds bearing that statement shall be
39 conclusively deemed valid and issued in conformity with this
40 chapter. Reference on the face of the bonds to the resolution by

1 its date of adoption shall incorporate the provisions of the
2 resolution and of this chapter into the terms of the bonds.

3 (h) Members of the authority, or any person executing the
4 revenue bonds of the authority, shall not incur personal liability
5 on the bonds, nor shall these persons incur personal liability or
6 accountability by reason of the issuance of the revenue bonds of
7 the authority.

8 (i) The authority is authorized, out of any funds available for
9 that purpose, to purchase revenue bonds of the authority. The
10 authority may hold, pledge, cancel, or resell any bonds purchased
11 under the authority of this subdivision, subject to, and in
12 accordance with, agreements with bondholders.

13 (j) The financing or refinancing of projects or working capital
14 may be provided pursuant to this chapter by means other than
15 revenue bonds, at the discretion of the authority, including
16 financing or refinancing through certificates of participation, or
17 other interests, in bonds, loans, leases, installment sales, or other
18 agreements of the participating ~~district or districts~~ *party or*
19 *parties*. In this connection, the authority may do all things and
20 execute and deliver all documents and instruments as may be
21 necessary or desirable with regard to issuance of the certificates
22 of participation or other means of financing or refinancing.

23 (k) The authority may by resolution issue its revenue bonds in
24 the form of commercial paper.

25 SEC. 5. Section 17183.5 of the Education Code is amended to
26 read:

27 17183.5. In enacting this chapter, it is the intent of the
28 Legislature to provide financing only for projects demonstrated
29 by the participating ~~district~~ *party* to be financially feasible. In
30 demonstrating financial feasibility, the participating ~~district~~ *party*
31 may take into account all ~~district of its~~ funds, and may base
32 future projections upon historical experience or reasonable
33 expectations, or a combination thereof. Nothing in this section
34 shall be construed to imply that any project is required to produce
35 revenue in order to be financed under this chapter.

36 SEC. 6. Section 17184 of the Education Code is amended to
37 read:

38 17184. (a) In the discretion of the authority, any revenue
39 bonds of the authority issued under this chapter may be secured
40 by a trust agreement, or by indenture by and between the

1 authority and a corporate trustee or trustees, including the
2 Treasurer or any trust company or bank having the powers of a
3 trust company within or outside the state.

4 (b) Any trust agreement, indenture, or any resolution
5 providing for the issuance of bonds of the authority, may pledge
6 or assign the proceeds of the bonds, and the revenues to be
7 received by, a participating ~~district or districts~~ *party or parties*.

8 (c) Any trust agreement, indenture, or resolution providing for
9 the issuance of revenue bonds of the authority may include any
10 provisions for the protection of, and the enforcement of the rights
11 and remedies of, bondholders as may be reasonable and proper
12 and not in violation of any law, including provisions included in
13 any resolution or resolutions of the authority provided under
14 subdivision (a) or (b).

15 (d) Any trust agreement or indenture may prescribe the rights
16 and remedies of the bondholders, and of the trustee or trustees,
17 and may restrict the individual right of action of the bondholders.

18 (e) Any trust agreement, indenture, or resolution may include
19 any other provisions deemed by the authority to be reasonable
20 and proper for the security of the bondholders.

21 (f) Notwithstanding any other provision of law, the Treasurer
22 shall not be deemed to have a conflict of interest by reason of his
23 or her capacity as trustee pursuant to this chapter.

24 SEC. 7. Section 17185 of the Education Code is amended to
25 read:

26 17185. (a) ~~Revenue~~ *Notwithstanding any other provision of*
27 *law, revenue* bonds issued under this chapter are not and shall not
28 be deemed to constitute a debt or liability of the state, or any
29 political subdivision thereof, and are not and shall not be deemed
30 to be a pledge of the faith and credit of the state, or any political
31 subdivision thereof, other than the authority. Revenue bonds of
32 the authority shall be payable solely from funds provided under
33 this chapter.

34 (b) Each revenue bond of the authority shall include a
35 statement on the face of the bond that neither the State of
36 California nor the authority is obligated to pay the principal or
37 interest thereon, except from revenues of the authority, and shall
38 also include a statement that neither the faith or credit, nor the
39 taxing power of the State of California, or any political

1 subdivision, is pledged to the payment of the principal or interest
2 of the bonds.

3 (c) The issuance of revenue bonds under this chapter shall not
4 directly, indirectly, or contingently obligate the state, or any
5 political subdivision thereof, to levy or pledge any form of
6 taxation, or make any appropriation for their payment. *This*
7 *section shall apply to any entity that is authorized to grant a*
8 *charter to a charter school, except a charter school that is a*
9 *dependent charter of a school district or county office of*
10 *education, or is itself a school district.*

11 SEC. 8. Section 17193 of the Education Code is amended to
12 read:

13 17193. (a) The authority shall fix, revise, charge, and collect
14 rents for the use of each project owned by the authority, and may
15 contract with any person, partnership, association, corporation, or
16 other body, whether public or private, for that purpose. Any lease
17 entered into by the authority with a participating ~~district~~ party,
18 and each agreement, note, or other instrument evidencing the
19 obligations of a participating ~~district~~ party to the authority, shall
20 provide that the rents or principal, interest, and other charges
21 payable by the participating ~~district~~ party shall be sufficient to
22 provide for all of the following:

23 (1) To pay the principal, sinking fund payments, if any,
24 premiums, if any, and the interest on outstanding bonds of the
25 authority issued in respect of the project when due and payable.

26 (2) To create and maintain reserves ~~which~~ that may, but need
27 not necessarily be required or provided for, in the resolution
28 relating to the revenue bonds of the authority.

29 (3) To pay its share of the administrative costs and expenses of
30 the authority.

31 (b) The authority shall pledge the revenues derived and to be
32 derived from a project or from a participating ~~district~~ party for
33 the purposes specified in paragraphs (1), (2), and (3) of
34 subdivision (a). The authority may issue additional revenue
35 bonds ~~which~~ that may be ranked on a parity with other bonds
36 relating to the project to the extent, and under the terms and
37 conditions provided, in the bond resolution.

38 (c) The authority and a participating ~~district~~ party may include
39 in any lease or agreement between them or with a credit provider
40 any terms and conditions relating to insurance, liquidity, or credit

1 enhancement of the bonds, or any other lawful terms and
2 conditions the authority deems necessary or desirable to facilitate
3 the purposes of this chapter.

4 SEC. 9. Section 17193.5 of the Education Code is amended to
5 read:

6 17193.5. (a) For purposes of this section, “public credit
7 provider” means any financial institution or combination of
8 financial institutions, ~~which~~ *that* consists either solely, or has as a
9 member or participant, a public retirement system.
10 Notwithstanding any other provision of law, a public credit
11 provider may, in connection with providing credit enhancement
12 for bonds, notes, certificates of participation, or other evidences
13 of indebtedness of a ~~school district or county office of education~~
14 *participating party*, require the ~~school district or county office of~~
15 ~~education~~ *participating party* to agree to the following
16 conditions:

17 (1) If a ~~participating school district or county office of~~
18 ~~education party~~ adopts a resolution by a majority vote of its
19 board to participate under this section, it shall provide notice to
20 the Controller of that election. The notice shall include a
21 schedule for the repayment of principal and interest on the bonds,
22 notes, certificates of participation, or other evidence of
23 indebtedness and identify the public credit provider that provided
24 credit enhancement. The notice shall be provided not later than
25 the date of issuance of the bonds.

26 (2) If, for any reason a public credit provider is required to
27 make principal or interest payments or both pursuant to a credit
28 enhancement agreement, the public credit provider shall
29 immediately notify the Controller of that fact and of the amount
30 paid out by the public credit provider.

31 (3) Upon receipt of the notice required by paragraph (2), the
32 Controller shall make an apportionment to the public credit
33 provider in the amount of the payments made by the public credit
34 provider for the purpose of reimbursing the public credit provider
35 for its expenditures made pursuant to the credit enhancement
36 agreement. The Controller shall make that apportionment only
37 from moneys designated for apportionments to ~~the a~~ school
38 district pursuant to Section 42238 or to ~~the a~~ county office of
39 education pursuant to Section 2558 or to the community college

1 district pursuant to Section 84750, *or in the case of a charter*
2 *school, pursuant to Section 47633.*

3 (b) ~~The amount apportioned for a school district, a county~~
4 ~~office of education, or a community college district participating~~
5 ~~party pursuant to this section shall be deemed to be an allocation~~
6 ~~to the district or the county office of education or the community~~
7 ~~college district participating party for purposes of subdivision~~
8 ~~(b) or Section 8 of Article XVI of the California Constitution.~~
9 For purposes of computing revenue limits or revenue levels
10 pursuant to Section 42338 for any school district or pursuant to
11 Section 2558 for any county office of education or pursuant to
12 Section 84750 for any community college district, the revenue
13 limit or revenue level for any fiscal year in which funds are
14 apportioned for the district or for the county office of education
15 pursuant to this section shall include any amounts apportioned by
16 the Controller pursuant to paragraph (3) of subdivision (a). *For*
17 *the purposes of computing the general-purpose entitlement of a*
18 *charter school pursuant to Section 47633, that entitlement shall*
19 *include any amounts apportioned by the Controller pursuant to*
20 *paragraph (3) of subdivision (a). The participating party and its*
21 *creditors do not have a claim to funds apportioned or anticipated*
22 *to be apportioned to the trustee by the Controller pursuant to*
23 *paragraph (3) of subdivision (a).*

24 SEC. 10. Section 17194 of the Education Code is amended to
25 read:

26 17194. The authority may authorize any participating ~~district~~
27 *party* to act as its agent in the performance of acts specifically
28 approved by the authority, and all acts required under Article 3
29 (commencing with Section 17280) of Chapter 3 of Part 10.5. The
30 authorizations may include, but are not necessarily limited to, all
31 of the following:

- 32 (a) The selection of school or college sites.
- 33 (b) The securing of appraisals.
- 34 (c) Contracts for architectural services.
- 35 (d) The advertisement for construction bids and the entry into
36 contracts for construction.
- 37 (e) The purchase of furniture and equipment.

38 SEC. 11. Section 17195 of the Education Code is amended to
39 read:

1 17195. Whenever the principal and interest on bonds issued
2 by the authority to finance the cost of a project, or to refinance
3 the outstanding indebtedness of one or more participating
4 ~~districts~~ *parties*, including any refunding bonds issued to refund
5 and refinance those bonds, have been fully paid or retired, or
6 whenever adequate provision has been made to fully pay and
7 retire the bonds, and all other conditions of the resolution, lease,
8 trust indenture and any security interest, or any other instrument
9 or instruments authorizing and securing the bonds have been
10 satisfied and the lien of security interest has been released in
11 accordance with those provisions, the authority shall promptly
12 provide for and execute any releases, release deeds,
13 reassignments, deeds, and conveyances as are necessary and
14 required to convey or release its rights, title, and interest in the
15 project financed, to the participating ~~districts~~ *parties*.

16 SEC. 12. Section 17199.1 of the Education Code is amended
17 to read:

18 17199.1. (a) Any participating ~~district~~ *party*, exclusively for
19 the purpose of securing financing or refinancing of projects or
20 working capital pursuant to this chapter through the issuance, by
21 the authority, of revenue bonds, certificates of participation, or
22 other means, and notwithstanding any other provision of law,
23 may: (1) sell to the authority all or part of any rights to or
24 possibilities regarding the state's share of funding for school
25 facilities approved by the State Allocation Board pursuant to
26 Chapter 12.5 (commencing with Sec. 17070.10) including
27 amounts apportioned and funded and amounts approved but not
28 yet funded by the State Allocation Board from proceeds of state
29 bonds already authorized by the electors but not yet issued; (2)
30 issue bonds to the authority; or (3) borrow money or purchase or
31 lease educational facilities from the authority, and in connection
32 therewith, sell or lease property to the authority, in each case at
33 any interest rate or rates, rental provisions, with any maturity
34 date or dates or term, and with any other transfer, assignment,
35 payment, security, default, remedy, and other terms or provisions
36 as may be specified in the sale of rights agreement or the bonds
37 of the participating ~~district~~ *party* or a loan, loan purchase,
38 installment sale, lease, or other agreement between the authority
39 and the participating ~~district~~ *party*, subject to the following
40 conditions:

1 (A) The sum of the amount borrowed to finance working
2 capital and the interest payable thereon at the initial interest rate
3 if interest is variable, shall not exceed 85 percent of the estimated
4 amount of uncollected taxes, income, revenue, cash receipts, and
5 other ~~district~~ funds *received by the participating party*, which
6 will be available in any fiscal year for the repayment of the loan
7 and the interest thereon. For purposes of this paragraph,
8 “revenue” includes, but is not limited to, federal and state funds
9 received by the ~~district~~ *participating party*.

10 (B) In computing the maximum amount ~~which~~ *that* may be
11 borrowed in any fiscal year pursuant to subparagraph (A), the
12 ~~district participating party~~ may exclude the amount of any
13 principal or interest which is secured by a pledge of the amount
14 in any inactive or term deposit of the ~~district participating party~~
15 which has a term scheduled to terminate during that fiscal year.

16 (C) A participating ~~district party~~ that borrows money to
17 finance working capital pursuant to this subdivision shall be
18 required to repay and discharge the loan, including interest,
19 within 15 months of the loan date.

20 (D) In enacting this chapter, it is the intent of the Legislature
21 to provide financing of working capital needed to cover
22 temporary or cash-flow deficits and needs for working capital
23 and not long-term budget deficits or shortfalls in funding. The
24 participating ~~school district party~~ must demonstrate to the
25 satisfaction of the authority that, during the term of any working
26 capital loan received pursuant to this chapter, the participating
27 ~~district party~~ will receive or otherwise have (without additional
28 borrowing) sufficient funds to repay and discharge the loan. The
29 participating district may take into account all ~~district~~ funds
30 *received by the participating party* and may base future
31 projections upon historical experience or reasonable
32 expectations, or a combination thereof.

33 (b) Notwithstanding Sections 700, 703, and 1045 of the Civil
34 Code, the rights and possibilities that a participating ~~district party~~
35 may have or obtain in the future to an approved state contribution
36 to funding for school facilities pursuant to Chapter 12.5
37 (commencing with Sec. 17070.10) that remains unfunded
38 pending the issuance of state bonds already authorized by the
39 electors shall constitute property for all purposes and may be
40 transferred as provided in subdivision (a). In the case of any

1 transfer or assignment of rights or possibilities relating to funds
2 for which bonds have been approved by the voters but are not yet
3 available, the transfer or assignment shall be approved by
4 resolution of the State Allocation Board prior to becoming
5 effective.

6 (c) Any participating~~—district~~ *party* may enter into any
7 agreement for liquidity or credit enhancement, with any
8 reimbursement, payment, interest, security, default, remedy, and
9 other terms it may deem necessary or appropriate in connection
10 with the issuance of bonds, the borrowing of money or the lease
11 or purchase of educational facilities, whichever is applicable.
12 Any participating~~—district or districts~~ *party or parties* may also do
13 all things and execute all documents as may be necessary or
14 desirable in connection with the issuance of certificates of
15 participation, or other interests, in any bond, loan, installment
16 sale, lease, or other agreement of the~~—district~~ *participating party*.

17 (d) A school district may by resolution authorize any county or
18 city board of education or superintendent of schools,~~and~~ a
19 community college district may by resolution authorize the
20 Board of Governors of the California Community Colleges or the
21 Chancellor of the California Community Colleges, *and a charter*
22 *school may by resolution authorize its chartering entity or*
23 *educational management organization*, to act as its agent in the
24 performance of any of the matters permitted by this section or
25 any other provision of this chapter. Notwithstanding any other
26 provision of law, the agent shall have the powers granted by the
27 resolution for purposes of this chapter. The resolution shall be
28 deemed to bind the school district, *charter school*, or community
29 college district, as the case may be, to any contract, agreement,
30 instrument, or other document executed by the agent on behalf of
31 the school district, *charter school*, or community college district,
32 and all duties, obligations, or responsibilities contained therein
33 on the part of the school district, *charter school*, or community
34 college district, to the same extent as if duly authorized,
35 executed, and delivered by the school district, *charter school*, or
36 community college district.

37 (e) This section shall be deemed to provide a complete,
38 additional, and alternative method for accomplishing the acts
39 authorized by this section, and the sale or transfer of any rights to
40 or possibilities regarding the state share of funding for school

1 facilities approved by the State Allocation Board including
2 amounts apportioned and funded and amounts approved but not
3 yet funded from proceeds of state bonds already authorized by
4 the electors but not yet issued, issuance of bonds to, borrowing of
5 money from, or sale or purchase or lease of educational facilities
6 from or to, the authority. Any agreement entered into in
7 connection with the transfer of any rights to or possibilities
8 regarding the state contribution for funding for school facilities
9 pursuant to Chapter 12.5 (commencing with Section 17070.10),
10 including amounts apportioned and funded and amounts
11 approved but not yet funded by the State Allocation Board from
12 proceeds of state bonds already authorized by the electors but not
13 yet issued, or the issuance of bonds, the borrowing of money or
14 the sale, purchase, or lease of educational facilities, including,
15 without limitation, any agreement for liquidity or credit
16 enhancement under this section, need not comply with the
17 requirements of any other law applicable to issuance of bonds,
18 borrowing, selling, purchasing, leasing, pledge, encumbrance, or
19 credit, as the case may be, by a school district, *charter school*, or
20 community college district, or by a county or city board of
21 education or superintendent of schools, or the Board of
22 Governors of the California Community Colleges or Chancellor
23 of the California Community Colleges, *or the governing board of*
24 *a charter school, chartering entity, or educational management*
25 *organization.*

26 SEC. 13. Section 17199.4 of the Education Code is amended
27 to read:

28 17199.4. (a) Notwithstanding any other law, any
29 ~~participating school district or county office of education~~ *party*,
30 in connection with securing financing or refinancing of projects,
31 except working capital, pursuant to this chapter may elect to
32 guarantee or provide for payment of the bonds in accordance
33 with the following conditions:

34 (1) If a ~~participating school district or county office of~~
35 ~~education~~ *party* adopts a resolution by a majority vote of its
36 board to participate under this section, it shall provide notice to
37 the Controller of that election. The notice shall include a
38 schedule for the repayment of principal and interest on the bonds,
39 *and any other costs necessary or incidental to financing pursuant*
40 *to this chapter*, and identify a trustee appointed by the

participating ~~school district or county office of education~~ party or the authority for purposes of this section. The notice shall be provided not later than the date of issuance of the bonds *or 60 days prior to the next payment, whichever date is later. The participating party shall update the notice at least annually if there is a change in the required payment for any reason, including, but not limited to, providing for new or increased costs necessary of incidental to the financing.*

(2) If, for any reason, the ~~school district or county office of education~~ participating party will not make ~~the a~~ payment of principal and interest at the time the payment is required, the participating ~~school district or county office of education~~ party shall notify the trustee of that fact and of the amount of the deficiency. ~~The~~ *If the trustee receives this notice from the participating party, or does not receive any payment by the date that payment becomes due, the* trustee shall immediately communicate that information to the Controller.

(3) Upon receipt of the notice required by paragraph (2), the Controller shall make an apportionment to the trustee *on the date shown in the schedule* in the amount of the deficiency for the purpose of making the required payment ~~of principal or interest, or both~~. The Controller shall make that apportionment only from moneys in Section A of the State School Fund designated for apportionment ~~to the a school district pursuant to Section 42238 or to the county office of education pursuant to Section 2558, or in the case of a charter school, pursuant to Section 47633.~~

(4) As an alternative to the procedures set forth in paragraphs (2) and (3), the participating ~~school district or county office of education~~ party may provide a transfer schedule in its notice to the Controller of its election to participate under this section. The transfer schedule shall set forth amounts to be transferred to the trustee and the date for the transfers. The Controller shall, subject to the limitation ~~in the last sentence of~~ paragraph (3), make apportionments to the trustee of those amounts on the specified date for the purpose of making those transfers. *the authority may require a participating party to proceed under this subdivision.*

(b) (1) The amount apportioned for a ~~school district or for a county office of education~~ participating party pursuant to this section shall be deemed to be an allocation to the ~~district or the county office of education~~ participating party for purposes of

1 subdivision (b) of Section 8 of Article XVI of the California
2 Constitution. ~~For~~

3 (2) *For* purposes of computing revenue limits pursuant to
4 Section 42238 for any school district or pursuant to Section 2558
5 for any county office of education, the revenue limit for any
6 fiscal year in which funds are apportioned for the ~~district or for~~
7 ~~the county office of education~~ *participating party* pursuant to this
8 section shall include any amounts apportioned by the Controller
9 pursuant to paragraphs (3) and (4) of subdivision (a).

10 (3) *For the purposes of computing the general-purpose*
11 *entitlement of a charter school pursuant to Section 47633, that*
12 *entitlement shall include any amounts apportioned by the*
13 *Controller pursuant to paragraphs (3) and (4) of subdivision (a).*
14 *The participating party and its creditors do not have a claim to*
15 *funds apportioned or anticipated to be apportioned to the trustee*
16 *by the Controller pursuant to paragraph (3) and (4) of*
17 *subdivision (a), or to the funds apportioned to by the Controller*
18 *to the trustee under any other provision of this section.*

19 (c) (1) ~~School districts or county offices of education~~
20 *Participating parties* that elect to participate under this section
21 shall apply to the authority. The authority shall consider each of
22 the following priorities in making funds available:

23 (A) First priority shall be given to school districts, *charter*
24 *schools*, or county offices of education that apply for funding for
25 instructional classroom space.

26 (B) Second priority shall be given to school districts, *charter*
27 *schools*, or county offices of education that apply for funding of
28 modernization of instructional classroom space.

29 (C) Third priority shall be given to all other eligible costs, as
30 defined in Section 17173.

31 (2) The authority shall prioritize applications at appropriate
32 intervals.

33 (3) A school district electing to participate under this section
34 that has applied for revenue bond moneys for the purposes of
35 joint venture school facilities construction projects, pursuant to
36 Article 5 (commencing with Section 17060) of Chapter 12, shall
37 not be subject to the priorities set forth in paragraph (1).

38 (d) This section shall not be construed to make the State of
39 California liable for any ~~payment of principal or interest on any~~
40 ~~bonds or certificates of participation~~ *payments* within the

1 meaning of Section 1 of Article XVI of the California
2 Constitution or otherwise, except as expressly provided in this
3 section.

4 ~~(e) A school district that has a qualified or negative~~
5 ~~certification pursuant to Section 42131, or a county office of~~
6 ~~education that has a qualified or negative certification pursuant to~~
7 ~~Section 1240, may not participate under this section.~~

8 ~~(f) The authority shall report to the Legislature by January 1,~~
9 ~~2001, on the number of school districts or county offices of~~
10 ~~education electing to participate under this section and on the~~
11 ~~financial stability of the participating school districts and county~~
12 ~~offices of education.~~

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